**REMARKS**

Upon entry of the present amendment, claims 1-29 will remain pending in the above-identified application and have been subjected to a restriction of requirement by the USPTO.

The amendments herein to claims do not incorporate new matter into the application as originally filed. For example, claim 6 is being amended into an independent format by incorporating limitations recited in claims 1-2. Similarly, claims 7-8 have been amended to reflect that claim 6 is now in an independent format. Claim 9 has been amend to improve the English grammatical format thereof. Claim 17 is being amended to be multiply dependent and to recite language that occurred in original claim 17. Claim 19 is being amended to incorporate certain limitations found in original claim 18. In claim 20 references to the DNA of claim 18 are being deleted, based upon the election made below (which does not include claim 18). Claim 28 is being amended to be dependent upon each of claims 9-16, as according in the original present claim, and to remove references to the polypeptide of claim 19.

Regarding newly added claim 29, the same is directed to a diagnostic agent comprising the recombinant polypeptide removed from claim 28.

Accordingly, entry of the present amendment is respectfully requested.

**Election/Restrictions**

Restriction has been required in the matter of the above-identified application under the provision of 35 USC § 121 and 372.

Particularly, the Examiner contents that five patentably distinct inventions (group I - group V) are encompassed by claims of the present invention. Each of groups I-V are set forth at page 2 of the Examiner's Office Action Under the "Election/Restrictions" heading.

Applicants respectfully traverse the Examiner's restriction requirement and ask for reconsideration thereof. The traversal is based upon the fact that no undue burden would be placed upon the Examiner to consider each of the pending claims 1-29 at present.

Even though applicants traverse the Examiner's restriction requirement, they realized that a response must be made in order to further prosecution in the matter of the instant application. Accordingly, Applicants select the invention of group II with traverse. Claims encompassed 5 group II (as set forth in the Office Action) are claims 6, 8-17, 19-20 and 28 which are drawn to a tumor antigen protein, a pharmaceutical composition, and a recombinant protein.

Given that the Examiner has included claim 8 (a pharmaceutical composition) in the elected group II, Applicants' questioned why claim 7 is also not included in group II? For example, it would appear that is proper search of claims 7 and 8 would overlap to such an extent that both claims would be proper within group II. Accordingly, the Examiner is respectfully requested to add claim 7 to the elected group II.

The Examiner in further requested that if Applicant elects group II for prosecution, that one sequence from sequence ID Nos. 3-21 be selected for prosecution on the merits. Accordingly, in order that the Examiner can be began searching the present invention as selected in group II, Applicants select sequence ID No. 5.

Should the Examiner have any questions regarding the present election of group II, or selection of sequence ID No. 5, he respectfully requested to contact John W. Bailey (Reg. No. 32,881) at the telephone number of the undersigned.

**Attached hereto is a marked-up version of the changes made to the application by this Amendment.**

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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JWB/enm
0020-4872P

(Rev. 01/02/02)

**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

IN THE CLAIMS:

The claims have been amended as follows:

6. (Twice amended) A tumor antigen protein that is encoded by [the] a DNA of [claim 1] any one of the following (a) to (d):

(a) a DNA encoding a protein comprising the amino acid sequence of SEQ ID NO:1,

(b) a DNA comprising the nucleotide sequence of SEQ ID NO:2,

(c) a foreign DNA carried in *E. coli* JM109 (3D9) (deposit number FERM BP-6929), and

(d) a DNA which hybridizes with a DNA of any one of (a) to (C) under stringent hybridization conditions wherein said DNA encodes a tumor antigen protein which gives rise to tumor antigen peptide(s) that bind(s) to an HLA antigen and are recognized by cytotoxic T lymphocytes.

7. (Amended) A pharmaceutical composition that comprises as an active ingredient [the DNA of claim 1 or 2, or] the protein of claim 6.

8. (Amended) A pharmaceutical composition for treating or preventing tumors, which comprises as an active ingredient [the DNA of claim 1 or 2, or] the protein of claim 6.

9. (Amended) A tumor antigen peptide that is a partial peptide derived from the protein of claim 6, and that binds [is capable of binding] to an HLA antigen and [being] is recognized by cytotoxic T lymphocytes, or a derivative thereof having [the] functionally equivalent properties.

17. (Twice Amended) A pharmaceutical composition for treating or preventing tumors, which comprises as an active ingredient at least one of substances selected from the tumor antigen peptides and derivatives thereof according to any one of claims 9 to 16.

19. (Amended) A recombinant polypeptide obtainable by expressing [the] a recombinant DNA [of claim 18] comprising at least one of DNAs that encode the tumor antigen peptides or derivatives thereof according to any one of claims 9 to 16.

20. (Amended) A pharmaceutical composition for treating or preventing tumors, which comprises as an active ingredient [the recombinant DNA of claim 18 or] the recombinant polypeptide of claim 19.

28. (Twice Amended) A diagnostic agent for tumors, which comprises the tumor antigen peptide or derivative thereof according to any one of claims 9 to 16, or the protein of claim 6 [, or the recombinant polypeptide of claim 19].

Claim 29 has been added.